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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 40139
)	
v.)	ADA COUNTY NO. CR 2011-16632
)	
ROBERT LEROY HUCK,)	REPLY BRIEF
)	
Defendant-Appellant.)	

REPLY BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA

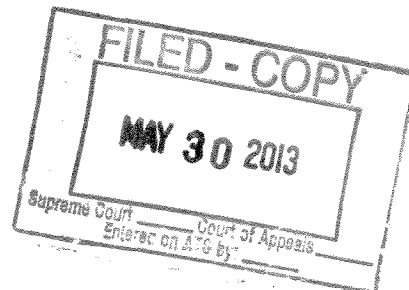
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STATEMENT OF THE CASE

Nature of the Case

Robert Leroy Huck appeals from his judgment of conviction for possession of a controlled substance and possession of drug paraphernalia. After his motion to suppress was denied, Mr. Huck pleaded guilty and preserved the right to appeal from the denial of his motion. The district court imposed unified sentences of seven years, with three years fixed, and 180 days, and it retained jurisdiction. Mr. Huck appeals, and he asserts that the district court erred by denying his motion to suppress. This Reply Brief addresses only the State's assertion that this Court need not to address the issue of whether Mr. Huck had standing to challenge the search of the automobile.

Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Mr. Huck's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference thereto.

ISSUE

Did the district court err when it denied Mr. Huck's motion to suppress?

ARGUMENT

The District Court Erred When It Denied Mr. Huck's Motion To Suppress

A. Introduction

Mr. Huck asserts that the district court erred by denying his motion to suppress because both the stop and the search of his vehicle were illegal.

B. The District Court Erred When It Denied Mr. Huck's Motion To Suppress

The State has asserted that, because Mr. Huck has not challenged the drug dog's search of the vehicle, this Court does not need to address whether Mr. Huck has standing to challenge the search of the vehicle. (Respondent's Brief, p.5 n.2.) The State notes that Mr. Huck specifically challenged his stop and detention and the State concedes that Mr. Huck has standing to challenge those actions. (Respondent's Brief, p.5 n.2.) Mr. Huck agrees with the State that Mr. Huck has standing to challenge his stop and detention. However, Mr. Huck does not agree that standing to search the automobile is no longer an issue.


Mr. Huck challenged the search of the automobile as being the product of an unreasonable detention because it was prolonged. (Appellant's Brief, p.13.) Thus, he challenged the search of the vehicle on that basis and his standing to challenge the search of the vehicle would be relevant to that issue. Further, Mr. Huck challenged both the stop and the detention in this case; any search of the vehicle would necessarily be the fruit of an unlawful search or detention. See *Wong Sun v. U.S.*, 371 U.S. 471 (1963). Standing to search the vehicle is also relevant to that issue.

Mr. Huck submits that on this record it is apparent that he had standing to challenge the search of the car and will rely on the briefing in the Appellant's Brief on this issue.

CONCLUSION

Mr. Huck respectfully requests that this Court vacate his judgment of conviction and reverse the order denying his motion to suppress.

DATED this 30th day of May, 2013.



JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of May, 2013, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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ERIC J WILDMAN
DISTRICT COURT JUDGE
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